

ARAMARK Higher Education

Georgia Southwestern State University

800 GSW State University Dr. Americus, GA 31709
229-9242732 – 229-924-2145

CATERING SERVICES AGREEMENT

Date

This Agreement is by and between ARAMARK Educational Services, LLC (“Caterer”) and CUSTOMER NAME (“Customer”), having an address of:

Customer Street Address
City, State, Zip Code

Attention: Customer Name
Phone: Customer Phone
Fax: Customer Fax

Caterer and Customer, intending to be legally bound, agree as follows:

I. CATERER’S SERVICES

Caterer shall cater and serve the menu(s) agreed to by the parties at Customer’s event(s) (the “Event(s)”), which Event(s) shall be held at _____ (the “Facility”) as described on the catering order(s) attached or to be attached to this Agreement and made a part hereof (the “Catering Order(s)”). To the extent any Catering Orders are created hereafter, once such Catering Orders are signed by both parties, such Catering Order(s) shall be deemed to be part of, and are hereby incorporated into, this Agreement.

II. CHARGES FOR CATERING SERVICES

A. Per Person Charges. If the Catering Order(s) provides for per person charges, Customer shall pay Caterer for every person served at each Event at the per person charges specified on the Catering Order(s) plus all other costs and expenses specified on the Catering Order(s); provided, however, that if the number of persons served at the Event(s) is less than the Guaranteed Attendance (defined in Paragraph II. E. below), Customer shall pay the per person charges on the basis of the Guaranteed Attendance. Caterer reserves the right to count guests as they enter (or at a mutually agreeable time when an accurate count may be made) during each Event which is billed on a per person basis.

B. Administrative Fee; Taxes; Additional Charges. Customer shall pay to Caterer:

- (1) an administrative fee in an amount equal to ___% of all charges for catering services at an Event;
- (2) all applicable state and local sales taxes for all charges for catering services at the Event, as more particularly specified in the Catering Order(s);
- (3) all other charges specified on the Catering Order(s) or otherwise ordered by Customer or its agent(s);
- (4) all other charges and sums required to be paid by Customer pursuant to the terms of this Agreement.

If Customer is an entity claiming exemption from taxation, Customer must deliver to Caterer satisfactory evidence of such exemption prior to the Event(s) in order to be relieved of its obligation to pay state and local sales taxes.

C. Deposit; Time of Payment.

- (1) Customer shall pay a deposit (the “Deposit”) of \$ _____ (i.e., 100% of the total charges for the Event(s)) not later than _____, 20___. The Deposit will not bear interest.
- (2) Caterer shall not be required to provide any services hereunder, nor will Caterer be required to commence planning for the Event(s), unless and until Customer has returned a signed copy of this Agreement to Caterer and has paid the Deposit to Caterer.

- (3) Customer shall pay the balance of the charges due under this Agreement prior to the Event(s), in accordance with the following payment schedule:

Amount Due:

Due Date:

Any additional amounts due Caterer from Customer based on the actual number of persons served and any variable and other charges payable pursuant to this Agreement will be determined following the Event(s). All such amounts shall be payable upon Customer's receipt of Caterer's invoice.

- (4) Neither the Deposit nor any other prepaid amounts will be refunded to Customer in the event Customer cancels the Event(s), except as follows: (a) in the event a written cancellation notice is received less than 60 days, but more than 30 days, from the first scheduled Event, Customer shall pay to Caterer a cancellation fee equal to 25% of the estimated Catering Order charges; (b) in the event a written cancellation notice is received less than 30 days from the first scheduled Event, but before the Guaranteed Attendance is due, Customer shall pay to Caterer a cancellation fee equal to 50% of the estimated Catering Order charges; and (c) any cancellation received after the Guaranteed Attendance is due will result in a cancellation fee payable by Customer to Caterer equal to 100% of the estimated Catering Order charges. Caterer may retain any cancellation fee due to Caterer from Deposits or other prepaid amounts paid by Customer. Customer acknowledges and agrees that cancellation of any one or more of the Events listed below, even if not representing a cancellation of all of Customer's Events, will require payment of a cancellation fee in accordance with this Paragraph:

1. _____
2. _____
3. _____

- (5) The parties acknowledge that the Facility's owner/operator (the "Owner") has the sole authority to book Facility-wide events at the Facility, and as of the date of this Agreement, a Facility-wide event has not been scheduled on the date(s) of the Event(s). In the event (i) the Event(s) is cancelled as a result of a Facility-wide event booked subsequently by the Facility's owner/operator, and (ii) the Event(s) cannot be rescheduled on another date(s) at the Facility, the Deposit or any other prepaid amounts will be refunded to Customer. Notwithstanding anything contained within this Agreement to the contrary, Caterer shall not be responsible for Customer's costs, in addition to the Deposit and prepaid amounts, that may arise from the cancellation of the Event(s) described in this paragraph.

D. Charges for Late Payments. Customer shall pay interest at the rate of 1.5% per month (or, if lower, the maximum legal rate) on all payments not made within thirty (30) days following the date such payments are due, which interest shall accrue from the date due until the date of payment. Further, Customer agrees to be liable for all costs and expenses incurred by Caterer to collect past due payments.

E. Guaranteed Attendance.

- (1) Customer shall notify Caterer of the minimum number of persons Customer guarantees will attend the Event(s) (the "Guaranteed Attendance"), in accordance with the following schedule:

<u>Estimated Attendance (per Event):</u>	<u>Days in Advance Guaranteed Attendance is Due (excludes holidays and weekends):</u>
Up to 500	5 days
501 to 2,500	7 days
Over 2,500	10 days

The Guaranteed Attendance (a) shall not exceed the maximum capacity of the areas within the Facility in which the Event(s) will be held, and (b) shall not decrease by more than 25% (or more than 1,000 people, whichever is lower) of the estimated attendance specified on the Catering Order(s). Caterer shall be entitled to charge and collect from Customer any reasonable costs incurred by Caterer in the event the Guaranteed Attendance figure provided by Customer is not within the limits stated in this paragraph.

- (2) If Customer fails to notify Caterer of the Guaranteed Attendance within the time required, (a) Caterer shall prepare for and provide services to persons attending the Event(s) on the basis of the

estimated attendance specified on the Catering Order(s), and (b) such estimated attendance shall be deemed to be the Guaranteed Attendance.

- (3) Caterer will be prepared to serve 5% above the Guaranteed Attendance (but not to exceed 50 meals; the "Overage"). In the event that Caterer serves 10% in excess of the Guaranteed Attendance, Customer shall pay a surcharge of 10% of the per person charge for each person served at the Event(s) in excess of the total of the Guaranteed Attendance. In the event the Guaranteed Attendance increases (which may only increase with Caterer's approval), following the time the Guaranteed Attendance was due, the Overage will no longer apply.

III. MISCELLANEOUS PROVISIONS

- A. PROHIBITION ON OUTSIDE FOOD AND BEVERAGES. NO FOOD OR BEVERAGES MAY BE BROUGHT INTO THE FACILITY FOR ANY PURPOSE WITHOUT THE PRIOR WRITTEN CONSENT OF CATERER.
- B. Liquor Laws. Customer shall comply with all applicable local and state liquor laws, and further agrees that neither Customer nor Customer's guests will request, proffer, or serve alcoholic beverages to any minors, or to any persons who, in the opinion of Caterer, are intoxicated.
- C. Set-ups and Floor Plans. Caterer reserves the right to approve, and make changes to, all floor plans and layouts of all event areas where Caterer's services are to be provided, as deemed necessary in Caterer's sole discretion, to enable the safe and efficient conduct of Caterer's services by Caterer's staff. Without limiting the generality of the foregoing, Caterer reserves the right to specify the locations and configuration of all décor, tables, buffet and service stations, aisles, and staging and breakdown areas. Notwithstanding the foregoing, Customer's displays, exhibits and decorations must conform to the building code and fire ordinances of the town where the Facility is located and must be free-standing without any attachment to walls, ceilings or floors of the Facility.
- D. Changes in Service. The dates and times of service specified on the Catering Order(s) and the other terms and conditions of this Agreement may be changed only by a written addendum signed by both Customer and Caterer. Any additional expenses arising from changes made at the Customer's request will be paid by the Customer.
- E. Insurance. Customer shall maintain at all times during the Event(s), and shall provide to Caterer on or before the date of the Event(s) a certificate evidencing, comprehensive general liability with limits of liability of \$1,000,000 per occurrence for bodily injury or property damage, including contractual liability (to cover Customer's obligations contained in Paragraph III.F. below). The foregoing insurance policy(ies) shall be issued by a company or companies licensed to do business in the state in which the Facility is located and reasonably acceptable to Caterer. All policies of liability insurance shall include Caterer and the Owner as additional insureds. Failure to carry the required insurance coverages shall not relieve Customer of its responsibility for losses and liabilities under this Agreement.
- F. Indemnification. Customer shall indemnify, defend (with counsel acceptable to Caterer), and hold harmless Caterer and the Owner, and each of their respective affiliates, subsidiaries, officers, directors and employees from and against any and all demands, claims, suits, cause or causes of action, whether at law or in equity, costs, expenses, and reasonable attorneys' fees for bodily injury (including death) or property damage caused by, growing out of, or happening in connection with, the acts or omissions of Customer, its employees or agents, or use of equipment by Customer, its employees or agents. The protections provided by this Paragraph III.F. shall survive the expiration of the term of this Agreement or earlier termination of this Agreement.
- G. Exclusive Supplier of Food and Beverage. Caterer shall be the exclusive supplier of food and alcoholic and non-alcoholic beverages served at the Event.
- H. Property Damage. Customer is responsible for damages to Caterer's property and for injuries to Caterer's personnel caused by Customer or Customer's agents' and/or guests' actions or negligence.
- I. Independent Contractor. Caterer is an independent contractor. Customer will not have the right to control, and won't control, how Caterer performs the catering services requested herein.
- J. Force Majeure. Neither Caterer nor Customer shall be responsible for any losses or damages of any kind resulting from their respective non-fulfillment of any terms or conditions of this Agreement if such non-fulfillment results in whole or part from war, riot, strike, flood, or any other act or occurrence beyond its control; provided, however, that in the event of non-fulfillment by Customer, Caterer may recover its actual costs incurred in preparing for the Event(s), which amounts may be retained by Caterer from Deposits and other prepaid amounts.
- K. Limitation of Damages. Notwithstanding anything contained herein to the contrary, in the event of any claim by Customer against Caterer in respect of this Agreement or the services rendered by Caterer hereunder, Caterer's liability to Customer shall be limited to the lesser of: (i) the actual, direct damages, if any, incurred by Customer; or (ii) the sum of

the charges paid or payable by Customer to Caterer for the services contemplated; in all cases regardless of the basis upon which liability is asserted. Without limiting the generality of the foregoing, in the event of any claim on the basis that Caterer failed to provide any products or services of the quantity, or type, or at the level of quality or timeliness, required hereby, Caterer's liability to Customer shall be limited to a refund only of those amounts actually paid by Customer to Caterer for the specific products or services affected. Such remedies shall be the sole and exclusive remedies available to Customer. In no event shall either party be liable to the other for any lost profits or opportunity of such other party (regardless of whether a party is advised of same), consequential, special or punitive damages.

- L. No Third Party Beneficiary. Nothing contained in this Agreement is intended to, or shall be deemed to confer, a third party beneficiary right upon any person, firm or corporation whatsoever.
- M. Authority. Each person signing this Agreement on behalf of Customer represents that he/she has full authority to legally bind Customer, and such person(s) shall be jointly and severally liable for all amounts owing if such representation is untrue.
- N. Assignment. Customer may not assign this Agreement or any of Customer's rights hereunder without the prior written consent of Caterer.
- O. Binding Effect. This Agreement shall be binding upon the parties hereto, and their respective heirs, administrators, executors, and permitted successors and assigns.
- P. Integration. This Agreement states the entire agreement of the parties with regard to the matters described herein and supersedes all previous agreements, oral or written.
- Q. Choice of Law. This Agreement shall be governed and construed by the internal laws of the state in which the Facility is located, without regard to its conflict of laws, rules or doctrine.
- R. Counterparts: Execution. This Agreement may be signed in one or more counterparts, which, when taken together, shall constitute but a single document when executed by all of the parties. Each of the parties agrees that its facsimile, scanned or e-mailed response document signature on this Agreement shall have the same force and effect as an original, non-facsimile, non-scanned and/or non-e-mailed signature by such party.

In Witness Whereof, Customer and Caterer have executed this Agreement.

CATERER:

ARAMARK EDUCATIONAL SERVICES, LLC

By: _____
Mynor Rivera
Food Service Director

CUSTOMER:

[INSERT ENTITY NAME]

By: _____
Name: _____
Title: _____